

**Motion to dismiss without  
prejudice pursuant to  
FRCP 41(a)(2) is granted.  
IT IS SO ORDERED.**

s/*David A. Ruiz*  
U.S. District Judge  
2/23/2023

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

MIKA O'TOOLE, Independent	)	CASE NUMBER: 1:23-cv-00307
Administrator of the Estate of TYLER	)	
JAMES O'TOOLE, via the Circuit Court	)	JUDGE: DAVID A. RUIZ
County Illinois, Probate Division, Deceased	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

---

**ORDER REGARDING MOTION TO DISMISS COMPLAINT WITHOUT PREJUDICE  
AND WITHOUT EFFECT ON THE “DOUBLE DISMISSAL RULE” PURSUANT TO  
FEDERAL RULE OF CIVIL PROCEDURE 41(a)(2)**

---

Now comes Plaintiff, by and through undersigned counsel, and hereby files this Motion to Dismiss her Complaint without prejudice and without effect on the “Double Dismissal Rule,” pursuant to Federal Rule of Civil Procedure 41(a)(2).

Plaintiff Mika O’Toole filed a Complaint for monetary damages pursuant to the Federal Tort Claims Act on September 22, 2022, on behalf of herself and the Estate of her late son Tyler O’Toole in case number 1:22-cv-01704 (hereinafter “the first case”). *See Court docket in case number 1:22-cv-0174.* She was properly appointed the Administrator of the Estate of Tyler on July 27, 2021, in Cuyahoga County, Ohio. Said Complaint asserted various claims against the Government for the tragic and untimely death of her late son Tyler while in their custody. The Government did not answer the Complaint in the first case nor file a motion under Rule 12(b), (e), or (f). The Government, however, filed a motion to transfer venue of the Complaint in the first case pursuant to 28 U.S.C.